

Appl. No.: 10/053,954

Amdt. Date: September 3, 2004

Reply to Office Action of May 6, 2004

**REMARKS/ARGUMENTS**

Reconsideration of the application is respectfully requested.

Claims 6, 7, 9, 10, 14, 16, 18 and 27 have been amended.

Claims 29 -34 have been added.

It is noted that the disclosure is objected to on the basis that certain portions of original claims 6, 14, and 21 were not grammatically correct. Grammatical changes have been made to claims 6 and 14 as well as corresponding changes to claim 27. Regarding claim 21, Examiner's attention is drawn to a Preliminary Amendment originally filed with the application. The word "location" appearing on line 1 of claim 21 was changed to "locations" in this Preliminary Amendment. Another minor change was also made to line 3 of claim 21 so as to change the word "the" to "each". Accordingly, claim 21 as presented in the current listing of claims does not indicate either of these changes as having been made in the current amendment. It is respectfully submitted that each claim in the current listing of claims is grammatically correct.

Original claims 1 through 9 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent 5,762,265 to Kitamura et al. This rejection is respectfully traversed.

It is respectfully submitted that Kitamura et al does not teach or suggest the determination of an overall level of comfort for a particular grouping of data entry

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devices from among data entry devices at more than one location as set forth in original claim 1. To the contrary, Kitamura teaches a determination of a level of comfort for the data entry devices at one location, namely, air conditioning space 7. This is done without regard to grouping the data entry devices in this space. In this regard, the data entry devices labeled 4 in Figures 1 and 2 all feed directly into a “complaint rate calculation means” labeled 19 within a thermal feeling vote responsive air-conditioning control means 2. The data entry devices labeled 4-1 in Figures 9 and 10 all feed directly into a switch labeled 9 in the thermal feeling vote responsive air-conditioning control means 2. Neither data collection device 9 or 19 teach or suggest any particular grouping of data entry devices from among data entry devices at a plurality of locations. Kitamura therefore cannot determine an overall level of comfort for a particular grouping of data entry devices as set forth in original claim 1.

It is noted that Examiner characterizes each data entry device in Kitamura as having a “unique identifier” such as was set forth in original claim 7. It is submitted that Kitamura does not teach or suggest that any grouping of data entry devices have a unique identifier as required in original claim 7. To the contrary Kitamura teaches that each individual data entry device may have its own unique identifier in the form of an email address.

Examiner’s attention is also directed to claim 8 as well as claim 5 wherein a computed overall level of comfort for the particular grouping of data entry devices must exceed a threshold value before a particular level of comfort is assigned to the particular grouping of data entry devices. There is no such computation followed by assignment in Kitamura et al.

Examiner’s attention is called to newly added claim 29 which further distinguishes over Kitamura. In this regard, claim 29 requires that the particular grouping of data

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entry devices of claim 1 be for a particular location. It is furthermore respectfully submitted that it would not be obvious to modify Kitamura et al so as to teach the determination of an overall comfort level for a particular grouping of data entry devices at a particular location from among data entry devices at a number of locations. In this regard, neither the complaint rate calculation means 19 of Figures 1 and 2 or the switch 9 of Figures 9 and 10 are capable of processing information from more than the air conditioning space 7.

Examiner's attention is also called to newly added claims 30 – 32 which recite that each location with data entry devices have a unique identifier and that a computed overall level of comfort must exceed a threshold value before a particular level of comfort is assigned. As noted previously, there is no such unique identifier usage or computation of overall level of comfort or assignment in Kitamura et al.

Original claims 21-28 stand rejected under 35 USC 103(a) as being unpatentable over Kitamura in view of Kline et al. It is stated that Kitamura teaches applicant's overall comfort level modifying system except for the heating and cooling system being an HVAC system. It is furthermore stated that it would be obvious to combine Kline with Kitamura to teach the claimed system. This rejection and accompanying reasoning is respectfully traversed.

It is first of all submitted that Kitamura does not teach or suggest the claimed invention of original claim 21 except for the recitation of an HVAC system. In this regard, Kitamura does not teach or suggest the determination of particular overall levels of comfort for each of a plurality of locations. As noted previously, Kitamura merely teaches processing collected information for data entry devices at one location, namely, air conditioning space 7. This is done through data collection devices 9 or 19. Kitamura hence cannot determine anything for data entry devices at a plurality of locations.

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It is furthermore submitted that it would not be obvious as to how to modify the data collection devices 9 or 19 of Kitamura to teach applicant's claimed invention in view of Kline et al. In this regard, Kline merely teaches that computers 34 at a location may individually interact with the VAV device for that location. It is not clear how such an interaction could be used to modify the collection devices 9 or 19 in Kitamura so as to teach or suggest applicant's claimed invention.

It is moreover respectfully submitted that Kline et al does not teach or suggest determining overall levels of comfort from data entry devices at the locations to be provided with conditioned air from the VAV devices. Kline et al rather teaches computers 34 at a location being able to individually access and possibly change a set point for the associated VAV device for the location. There is hence no collecting of information from all such computers at a location and determining an overall level of comfort based on collected information for all such computers.

Examiner's attention is also specifically called to claim 26 wherein an assignment of a particular overall level of comfort is made if computed overall levels of comfort do not exceed a threshold value. As noted previously, there is no teaching or suggestion of such in Kitamura. There is moreover no suggestion in Kline et al as to how such an assignment of overall level of comfort could be implemented.

It is furthermore submitted that neither Kitamura or Kline et al teach or suggest that data entry devices at a particular location have a unique identifier as required in claim 33. As noted previously with respect to the rejection of claim 7, Kitamura only teaches that each individual data entry device may have its own unique identifier in the form of an email address. Kline also does not teach or suggest providing unique identifiers to groupings of the computers 34.

It is still furthermore submitted that the combination of Kitamura and Kline et al neither teaches or suggests the assignment of an overall level of comfort based on

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whether a computed overall level of comfort exceeds a threshold value as is set forth in claims 26 or 34. In this regard, please see the remarks concerning claims 8 and 15.

Referring now to claim 10 as presently amended, it is respectfully submitted that neither Kitamura or Kline et al , either alone or in combination, teach or suggest an HVAC control that is responsive to a determined overall level of comfort based only on information as to selected comfort levels . In this regard, Kitamura teaches the computation of an output to a controller 5 from a “room temperature means” labeled 24 in Figures 1 and 2 and labeled 11 in Figure 9. Kitamura also teaches the use of a “cooling temperature setting means “ to deliver an output to the controller 5 in Figure 10. In all instances, there is significant logic downstream of these means that computes a temperature value based on more than the “thermal feeling votes”. This logic includes obtaining at least a sensed temperature from at least one sensor labeled 3. This is in contrast to applicant’s claimed invention where the only information used to determine the overall level of comfort to be used by the HVAC controller is the collected information on comfort levels entered at the data entry devices. It is furthermore submitted that Kline et al does not teach or suggest how Kitamura might be modified so as to suggest applicant’s claimed computational output to an HVAC controller. As has been previously noted, Kline et al does not teach or suggest any type of determination of overall level of comfort for a location, let alone one that is used as a direct input to an HVAC control.

The claims dependent from claim 10 further distinguish over the combination of Kitamura and Kline et al for the various reasons previously set forth herein.

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In summary, it is submitted that the claims of record distinguish over the art of record for the reasons stated herein. It is therefore requested that the claims of record be allowed and this case passed to issue.

Respectfully submitted,

KEVIN F. DUDLEY



William F. White  
Reg No.: 25,943

Carrier Corporation  
Carrier Parkway - A&R 111  
P.O. Box 4800  
Syracuse, NY 13221-4800